

**DECISION****THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548**

FILE: B-186096, B-186746

DATE: July 29, 1976

MATTER OF: T &amp; G Aviation

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**DIGEST:**

1. Although protester contends that invitation soliciting air tankers for use in dropping fire retardant favored owners of small DC-6's, since specifications called for performance which was the same as DC-6's maximum performance, three successful bidders under invitation offered small DC-6, large DC-6 and DC-7, respectively, which indicates that larger planes could be competitively bid.
2. Decision by Forest Service to base air tankers in California where fire emergency existed, even though under total mobility concept air tankers could be brought in from anywhere in United States to fight fires, was proper since it was more economical to base planes in California.
3. Request by protester that our Office reconsider and reverse decision in B-186096, June 21, 1976, is denied since protester has provided no factual information or substantive arguments different from those upon which our prior decision was based.

The subject matter of this decision concerns both a request for reconsideration of our decision in the matter of T & G Aviation, B-186096, June 21, 1976, which concerned the propriety of the United States Forest Service's partial cancellation of solicitation No. 49-76-03 and the issuance of solicitation No. 49-76-05 (both of these solicitations were issued for the purpose of procuring air tankers to drop fire retardants on forest and range fires), and the Forest Service's issuance of a third solicitation, No. 49-76-09, for the procurement of three additional air tankers to operate out of bases located in California.

By letter of June 25, 1976, T & G requested a reconsideration and reversal of our decision B-186096, June 21, 1976, in which we had denied T & G's protest against the partial cancellation of solicitation 49-76-03 and the issuance of solicitation 49-76-05.

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By mailgram of June 17, 1976, and letter of June 18, 1976, T & G Aviation (T & G) protested any award under solicitation No. 49-76-09 on the bases that:

1) While the Forest Service had partially canceled solicitation No. 49-76-03 because of insufficient funds, Congress had appropriated additional money for this purpose and had directed the Forest Service to comply with the level of air tanker service contained in solicitation 49-76-03. By issuing solicitation No. 49-76-09, the Forest Service was ignoring this congressional directive;

2) Solicitation No. 49-76-09 unfairly favors previously favored air tanker companies and operators owning small DC-6's and ignores more efficient ton-mile method of evaluating bids; and

3) There was no reason to base planes in California since in light of the Forest Service's total mobility concept, whereby aircraft anywhere in the United States can be sent to any area in the United States where a fire is located, and the highly developed air tanker dispatch system, air tankers can be stationed anywhere, such as at Wenatchee, Washington (a base solicited under solicitation 49-76-03 on which T & G was the low bidder but which was subsequently canceled); Boise, Idaho; Salt Lake City, Utah; or Coolidge, Arizona.

Regarding T & G's contention that Congress had directed the Forest Service to bring its air tanker service up to the level contemplated by solicitation 49-76-03 and had appropriated additional funds for this purpose, and that the Forest Service by the issuance of 49-76-09 had ignored this congressional directive, we discussed this matter in our decision B-186096, June 21, 1976. In that decision we concluded that this was a matter between the congressional committee involved and the Forest Service. In this connection, we note that the chairman of the Appropriations Subcommittee on Interior and Related Agencies advised the Department of Agriculture that since the additional air tankers awarded under 49-76-09 would increase the air tanker capacity to 92 percent of the original planned level, the committee did not object to the air tanker program

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currently envisaged. While T & G argues that the air tanker capacity is only 89 percent of the original planned level, the fact remains that the committee and the Forest Service reached an agreement in regard to this matter, and the Forest Service is no longer expected to comply with the above-mentioned directive.

Concerning T & G's allegation that solicitation 49-76-09 favors previously favored air tanker operators and operators owning small DC-6's, in our decision B-186096, June 21, 1976, we concluded that the Forest Service did not unfairly favor any air tanker companies and we do not believe any additional reasons have been advanced to justify a reversal of this conclusion. Also, we note that none of the air tanker companies supposedly favored under solicitations 49-76-03 and -05 received any awards under 49-76-09.

In regard to T & G's contention that solicitation 49-76-09 favors operators owning small DC-6's, the rationale for this contention appears to be that since the specifications provided for a daily flight rate of \$840 and solicited air tankers with a 21,000 pound capacity and a minimum cruising speed of 215 knots, which meet the maximum specifications of the small DC-6, only the small DC-6 can be economically operated. We were advised by the Forest Service that the three planes offered by the three successful bidders under solicitation 49-76-09 were a small DC-6, a large DC-6 and a DC-7. Thus, it appears that the larger tankers can be competitively bid. Regarding T & G's contention that solicitation 49-76-09 ignores the more efficient ton-mile method of evaluating bids, this question was discussed in ample detail in our decision B-186096, June 21, 1976. Thus, we will not comment further on the matter.

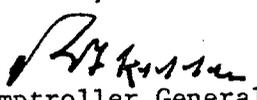
In regard to the decision by the Forest Service to procure air tankers under 49-76-09 to operate from California bases, we are advised that a fire emergency exists in California and that while under the total mobility concept air tankers can be brought in from anywhere in the United States, it is more economical to base the air tankers in California. On the basis of the present record, we are unable to conclude that the Forest Service's decision to base the air tankers in California was improper.

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For the above reasons, T & G's protest against award under solicitation 49-76-09 is denied.

Regarding T & G's request that we reconsider and reverse our decision B-186096, June 21, 1976, T & G has provided no factual information or substantive arguments different from those upon which our prior decision was based. Accordingly, we find no reason to change our position and our decision of June 21, 1976, is affirmed.

Deputy

  
Comptroller General  
of the United States